



## Legislation Text

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**File #:** 0840-2023, **Version:** 1

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### **Council Variance Application: CV22-117**

**APPLICANT:** Woda Cooper Companies, Inc.; c/o Dave Perry, Agent; David Perry Company, Inc.; 411 East Town Street, First Floor; Columbus, OH 43215, and Donald Plank, Atty.; 411 East Town Street, Second Floor; Columbus, OH 43215.

**PROPOSED USE:** Multi-unit residential development.

**MIDEAST AREA COMMISSION RECOMMENDATION:** Approval.

**CITY DEPARTMENTS' RECOMMENDATION:** Approval. The site is developed with a vacant office building but is otherwise primarily undeveloped in the C-4, Commercial District. The requested Council variance will permit an 82-unit apartment building with a density of 22.3 units per acre. A variance for increased building height is included in this request. The site is located within the boundaries of the *Hamilton Road Corridor Revitalization Plan* (2008), which recommends "Commercial/Personal Business Services" land uses at this location. Additionally, the Plan includes early adoption of the *Columbus Citywide Planning Policies* (C2P2) Design Guidelines (2018). This proposed development will be subject to a competitive funding process by the Ohio Housing Finance Agency (OHFA), which requires certain land attributes including compliant zoning. Staff supports the Council variance process to assist in this state funding application process as Rezoning Application #Z23-008, a request for the AR-1, Apartment Residential District, has been filed and is in the formal review process.

To grant a Variance from the provisions of Sections 3356.03, C-4 permitted uses; and 3309.14, Height districts, of the Columbus City Codes; for the property located at **4323 EASTPOINT DR. (43232)**, to permit a multi-unit residential development with reduced development standards in the C-4, Commercial District (Council Variance #CV22-117).

**WHEREAS**, by application #CV22-117, the owner of property at **4323 EASTPOINT DR. (43232)**, is requesting a Council variance to permit a multi-unit residential development with reduced development standards in the C-4, Commercial District; and

**WHEREAS**, Section 3356.03, C-4 permitted uses, does not permit ground floor residential uses, while the applicant proposes an 82-unit apartment building; and

**WHEREAS**, Section 3309.14, Height districts, requires that within a 35 foot height district, no building or structure shall be erected to a height in excess of 35 feet, while the applicant proposes an apartment building with an increased height of 50 feet; and

**WHEREAS**, the Mideast Area Commission recommends approval of said zoning change; and

**WHEREAS**, City Departments recommend approval because the requested variance will help facilitate state funding requirements for a multi-unit residential development that will provide mixed-income affordable and workforce housing consistent with City's objectives; and

**WHEREAS**, said ordinance requires separate submission for all applicable permits and Certificate of Occupancy for the proposed use; and

**WHEREAS**, said variance will not adversely affect the surrounding property or surrounding neighborhood; and

**WHEREAS**, the granting of said variance will not impair an adequate supply of light and air to adjacent properties or unreasonably increase the congestion of public streets, or unreasonably diminish or impair established property values within the surrounding area, or otherwise impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City of Columbus; and

**WHEREAS**, the granting of said variance will alleviate the difficulties encountered by the owners of the property located at **4323 EASTPOINT DR. (43232)**, in using said property as desired; now, therefore:

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**SECTION 1.** That a variance from the provisions of Sections 3356.03, C-4 permitted uses; and 3309.14, Height districts, of the Columbus City Codes, is hereby granted for the property located at **4323 EASTPOINT DR. (43232)**, insofar as said sections prohibit an apartment building in the C-4, Commercial District, with an increase in the building height from 35 to 50 feet; said property being more particularly described as follows:

**4323 EASTPOINT DR. (43232)**, being 3.68± acres located at the southeast corner of Eastpoint Drive and Kimberly Parkway East, and being more particularly described as follows:

PARCEL ONE:

Situated in the County of Franklin, in the State of Ohio, and in the City of Columbus, Section 28, Township 12, Range 21, Refugee Lands, containing 0.3800 acres of land, more or less, out of that 0.8035 acre tract of land as described in a deed to York Steak House Systems, Inc., of record in Deed Book 3379, page 3 (all references to Deed Books and Plat Books in this description refer to the records of the Recorder's Office, Franklin County, Ohio), said 0.3800 acre tract being more particularly described as follows:

Beginning, for reference, at the centerline intersection of Hamilton Road and Eastpoint Drive, as the same is delineated and designated upon the recorded plat of DEDICATION OF EASTPOINT DRIVE (KIMBERLY III), of record in Plat Book 41, page 48; thence N 88 deg. 25' 00"W, with the centerline of said Eastpoint Drive, a distance of 447.96 feet to a point; thence S 1 deg. 35' 00" W, a distance of 25.00 feet to a point in a southerly line of said Eastpoint Drive, a northeasterly corner of said 0.8535 acre tract, the true point of beginning;

Thence, from said true point of beginning, S 1 deg. 30' 00" W, with an easterly line of said 0.8035 acre tract, a distance of 152.95 feet to a point;

Thence S 88 deg. 30' 00" E, with a northerly line of said 0.8035 acre tract, a distance of 18.00 feet to a point;

Thence S 1 deg. 30' 00" W, with an easterly line of said 0.8035 acre tract, a distance of 120.00 feet to a point;

Thence N 88 deg. 30' 00" W, with a, southerly line of said 0.8035 acre tract, a distance of 61.78 feet to a point;

Thence N 1 deg. 30' 00" E, a distance of 101.25 feet to a point;

Thence N 88 deg. 30' 00" W, a distance of 14.22 feet to a point;

Thence N 1 deg. 30" 00" E a distance of 171.79 feet to a point in a southerly line of said Eastpoint Drive, a northerly line of said 0.8035 acre tract;

Thence S 88 deg. 25' 00" E, with a southerly line of said Eastpoint Drive, a northerly line of said 0.8035 acre tract, a distance of 58.00 feet to the true point of beginning, containing 0.380 acre of land, more or less.

Parcel Number: 010-014546

PARCEL TWO:

Situated in the State of Ohio, County of Franklin, and City of Columbus, Section 28, Township 12, Range 21, Refugee Lands, containing 0.4235 acres of land, more or less, out of that 0.8035 acre tract of land as described in a deed to York Steak House Systems, Inc., of record in Deed Book 3379, Page 3 (all references to Deed Books and Plat Books in this description refer to the records of the Recorder's Office, Franklin County, Ohio), said 0.4235 acre tract of land being more particularly described as follows:

Beginning, for reference, at the centerline intersection of Hamilton Road and Eastpoint Drive, as the same is delineated and designated upon the recorded plat of DEDICATION OF EASTPOINT DRIVE (KIMBERLY III), of record in Plat Book 41, Page 48;

thence North 88° 25' 00" West, with the centerline of said Eastpoint Drive, a distance of 447.96 feet to a point;

thence South 1° 35' 00" West, a distance of 25.00 feet to a point in a southerly line of said Eastpoint, a northeasterly corner of said 0.8035 acre tract;

thence North 88° 25' 00" West, with a southerly line of Eastpoint Drive, a northerly line of said 0.8035 acre tract, a distance of 58.00 feet to the true point of beginning;

thence, from said true point of beginning, South 1° 30' 00" West, a distance of 171.79 feet to a point;

thence South 88° 30' 00" East, a distance of 14.22 feet to a point;

thence South 1° 30' 00" West, a distance of 101.25 feet to a point in a southerly line of said 0.8035 acre tract;

thence North 88° 30' 00" West, with a southerly line of said 0.8035 acre tract, a distance of 76.50 feet to a southwesterly corner of said 0.8035 acre tract;

thence North 1° 30' 00" East, with a westerly line of said 0.8035 acre tract, a distance of 273.13 feet to a point in a southerly line of said Eastpoint Drive, a northwesterly corner of said 0.8035 acre tract;

thence South 88° 25' 00" East, with a southerly line of said Eastpoint Drive, a northerly line of said 0.8035 acre tract, a distance of 62.28 feet to the TRUE POINT OF BEGINNING, CONTAINING 0.4235 ACRES of land, more or less.

Parcel Number: 010-013942

PARCEL 3:

Situated in the State of Ohio, County of Franklin, and City of Columbus, being located in Section 28, Township 12, Range 21, Refugee Lands, and being part of the 1.446 acre tract conveyed to NFL Equities, Inc. and the Fritsche Corporation by deed of record in Official Record 6778C04, all references being to records in the Recorder's Office, Franklin County, Ohio, and bounded and described as follows:

Beginning at a point in the southerly right-of-way line of Eastpoint Drive (said right-of-way being 50 feet in width), at the

northeasterly corner of said 1.446 acre tract, the northwesterly corner of the 1.614 acre tract conveyed to York Steak House Systems, Inc., by deed of record in Deed Book 3649, Page 225;

thence South 1° 30' 00" West, along the westerly line of said 1.614 acre tract, a distance of 273.50 feet to the southeasterly corner of said tract, the northeasterly corner of the 0.750 acre tract conveyed to Samuel Zell, Trs., by deed of record in Deed Book 3802, Page 750;

thence North 88° 30' 00" West, along a northerly line of said Samuel Zell, Trs. tract, a distance of 199.43 feet to a point in the easterly right-of-way line of Kimberly Parkway East (said right-of-way line being 60 feet in width);

thence North 1° 30' 00" East, along said right-of-way line of Kimberly Parkway East, a distance of 248.75 feet to a point of curvature of a curve to the right;

thence along the arc of said curve (Delta = 90° 05' 00", radius = 25.0 feet), a chord bearing and distance of North 46° 32' 30" East; 35.38 feet to a point of tangency in the southerly right-of-way line of Eastpoint Drive;

thence South 88° 25' 00" East, along said right-of-way line of Eastpoint Drive, a distance of 174.39 feet to the place of beginning, CONTAINING 1.250 ACRES, more or less.

Bearings contained herein are based on the same meridian as bearings in deed of record in Official Record 6778C04

Parcel Number: 010-007754

PARCEL 4:

Situated in the State of Ohio, County of Franklin, and City of Columbus, being in Section 28, Township 12, Range 21, Refugee Lands, and containing 1.614 acres of land, more or less, said 1.614 acres being out of Parcel 9 as same is described in a deed to Primeland Properties, of record in Deed Book 3396, Page 796 (all references to Deed Books and Plat Books are of record in the Recorder's Office, Franklin County, Ohio), said 1.614 acres being more particularly described as follows:

Beginning at an iron pin on the southerly right-of-way line of Eastpoint Drive (50 feet in width), as said pin is shown on the plat DEDICATION OF KIMBERLY PARKWAY EAST AND RE-ALIGNMENT OF EASTPOINT DRIVE (KIMBERLY VI), of record in Plat Book 45, Page 95, said pin being South 88° 25' 00" East, a distance of 185.32 feet from the centerline of Kimberly Parkway East (70 feet in width);

thence from said pin, South 88° 25' 00" East, a distance of 44.11 feet to an iron pin, said pin being the TRUE POINT OF BEGINNING, in the southerly right-of-way of said Eastpoint Drive (50 feet in width);

thence from said TRUE POINT OF BEGINNING, South 88° 25' 00" East, with said southerly right-of-way of said Eastpoint Drive, a distance of 257.29 feet to an iron pin;

thence South 1° 30' 00" West, a distance of 273.13 feet to an iron pin;

thence North 88° 30' 00" West, a distance of 257.29 feet to an iron pin;

thence North 1° 30' 00" East, a distance of 273.50 feet to the TRUE POINT OF BEGINNING, CONTAINING 1.614 ACRES of land, more or less.

Parcel Number: 010-021112

**SECTION 2.** That this ordinance is conditioned on and shall remain in effect only for so long as said property is used for an 82-unit apartment building, or those uses permitted in the C-4, Commercial District.

**SECTION 3.** That this ordinance is further conditioned on the subject site being developed in general conformance with the site plan titled, "**SHAW CROSSING I, EASTPOINT DR.,**" signed by David B. Perry, Agent for the Applicant, and Donald Plank, Attorney for the Applicant, and dated March 2, 2023. The plan may be slightly adjusted to reflect engineering, topographical, or other site data developed at the time of the development and when engineering and architectural drawings are completed. Any slight adjustments to the plan shall be subject to review and approval by the Director of the Department of Building and Zoning Services, or a designee, upon submission of the appropriate data regarding the proposed adjustment.

**SECTION 3.** That this ordinance is further conditioned on the applicant obtaining all applicable permits and a Certificate of Occupancy for the proposed use.

**SECTION 4.** That this ordinance is further conditioned on the Applicant completing Rezoning Application #Z23-008 through City Council action within one year of the date of project funding being approved by the Ohio Housing Finance Agency (OHFA), or within two years of the effective date of this ordinance, whichever occurs first.

**SECTION 5.** That this ordinance shall take effect and be in force from and after the earliest period allowed by law.